



2020 REPORT ON ELECTRONIC FILING RULES

S.L. 2019-243, SEC. 3.(b)

PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
MARCH 1, 2020



About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

EXECUTIVE SUMMARY

Session Law 2019-243 requires the North Carolina Administrative Office of the Courts (NCAOC) to report on the rules promulgated by the North Carolina Supreme Court authorizing the electronic filing of pleadings and other documents required to be filed with the courts, and the use of electronic signatures in the General Court of Justice. The Chief Justice's Rules Advisory Commission is the body charged by the Supreme Court to recommend amendments to the General Rules of Practice for the Superior and District Courts. The Commission has taken up consideration of the provisions of Session Law 2019-243 pertaining to electronic filing and electronic signatures. The Commission has since discussed the relevant provisions of Session Law 2019-243 in three consecutive meetings occurring on 15 November 2019, 10 January 2020, and 7 February 2020.

As of the filing date of this report, the Commission has not submitted proposed rule amendments to the Supreme Court of North Carolina for consideration. However, work on such proposals is well underway and continues to progress. Members of the Supreme Court have been made aware of Session Law 2019-243, as well as the Commission's ongoing efforts to craft recommended amendments to the General Rules of Practice, in keeping with the legislative mandate. At such a time as the Supreme Court receives the Commission's proposal with regards to electronic filing rules under subsection 7A-49.5 (b1) of the General Statutes of North Carolina, it will evaluate the proposed amendments, apply any necessary edits, and promptly consider the proposal in conference.

As the rulemaking process progresses, the NCAOC will provide regular updates to the Joint Legislative Oversight Committee on Justice and Public Safety.



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LEGISLATIVE BACKGROUND

Part I, Section 3.(a) of [Session Law 2019-243](#), which became law on 6 November 2019, rewrites N.C.G.S. § 7A-49.5 as follows:

§ 7A-49.5. Statewide electronic filing in courts.

(a) The General Assembly finds that the electronic filing of pleadings and other documents required to be filed with the courts may be a more economical, efficient, and satisfactory procedure to handle the volumes of paperwork routinely filed with, handled by, and disseminated by the courts of this State, and therefore authorizes the use of electronic filing in the courts of this State.

(b) The Supreme Court may adopt rules governing this process and associated costs and may supervise its implementation and operation through the Administrative Office of the Courts. The rules adopted under this section shall address the waiver of electronic fees for indigents.

(b1) The Supreme Court shall promulgate rules authorizing electronic filing and electronic signatures in the General Court of Justice. The rules shall require registration to participate in electronic filing and provide security procedures that include a mandatory submission of a form of identification to electronically file pro se.

(c) The Administrative Office of the Courts may contract with a vendor to provide electronic filing in the courts.

Section 3.(b) of the law further provides that:

No later than March 1, 2020, the Administrative Office of the Courts shall report the rules promulgated pursuant to G.S. 7A-49.5(b1) to the Joint Legislative Oversight Committee on Justice and Public Safety.

RULE PROMULGATION PROCESS AND PROGRESS

The Chief Justice's Rules Advisory Commission is the body charged by the Supreme Court to recommend amendments to the General Rules of Practice for the Superior and District Courts. The Commission consists of a chairperson, who is the Chief Justice of the Supreme Court or his or her designee; one judge or justice from the Appellate Division; one judge from the Superior Court Division; one judge from the District Court Division; one clerk of the superior court; one trial court administrator; three practicing attorneys; and four at-large members. All members, with the exception of the chairperson, serve for a term of three years.



The major responsibilities of the Commission are to monitor the North Carolina Rules of Civil Procedure and the General Rules of Practice for the Superior and District Courts and to recommend amendments to those rule sets as needed. The Commission is currently focused on formulating recommended rule changes necessary to implement North Carolina's statewide electronic filing and integrated case management system. Further information about the Commission, including its membership, is available at <https://www.nccourts.gov/commissions/chief-justices-rules-advisory-commission>.

Shortly after passage of Session Law 2019-243, the Commission took up consideration of the law's provisions pertaining to electronic filing and electronic signatures. The Commission has since discussed the relevant provisions of Session Law 2019-243 in three consecutive meetings occurring on 15 November 2019, 10 January 2020, and 7 February 2020. The minutes of the Commission's meetings are available at <https://www.nccourts.gov/commissions/chief-justices-rules-advisory-commission/rules-advisory-commission-meeting-information>.

The Commission is giving careful consideration to all aspects of the rules governing electronic filing, including ways to maintain uniformity of application of all rules throughout the state during the five-year graduated roll-out period when some judicial districts will have access to electronic filing while others will still be using paper files. The Commission is also addressing how to best protect the security and confidentiality of sensitive information and documents filed under seal in cases such as juvenile proceedings and other matters currently protected by law. However, in accord with Sections 3.(a) and 3.(b) of Session Law 2019-243, the Commission has focused its recent discussions on the law's "security procedures" and "form of identification" provisions. The Commission has given careful consideration to the statutory requirement and discussed how best to craft rules that effectively implement the requirement in conjunction with the current configuration of an integrated case management system and other statutory provisions applicable to the court's procedures.

Tyler Technologies is the vendor selected by the NCAOC to configure North Carolina's integrated case management system, which will replace the state's older green screen and MS-DOS legacy systems and integrate all of those products into one total case management solution to include eFiling, financial management, and document management for all case types. The NCAOC selected Tyler Technologies in accordance with the recommendation of a vendor selection committee comprised of representatives from the following stakeholder groups: clerks of superior court, superior court judges, district court judges, district attorneys, public defenders, and court managers from both superior court and district court. At present, Tyler Technologies is configuring the integrated case management system, known as Odyssey, in coordination with the NCAOC.

At its latest meeting on 7 February 2020, the Commission invited representatives from Tyler Technologies to give a presentation about the functionality and capabilities of the Odyssey system. Following a visual demonstration of the Odyssey case management system, including its eFiling and registration functionality, the Tyler Technologies representatives answered questions about the product. In addition to the representatives from Tyler Technologies, the Commission also benefited from the attendance and input of legislative staff members from the offices of House Speaker Tim Moore and House Speaker Pro Tempore Sarah Stevens.

On the same day, 7 February 2020, a representative from Tyler Technologies participated in a meeting with Court of Appeals Judge Donna Stroud, who serves as the Rules Advisory Commission Chair, key personnel from the NCAOC, the Supreme Court, as well as two legislative staff members from the office of Representative Sarah Stevens. The purpose of the meeting was to provide a convenient forum in



which legislative staff and other stakeholders could gather information about the Odyssey system and pose specific questions about Tyler Technologies' electronic filing vendor solutions.

As of the filing date of this report, the Commission has not submitted proposed rule amendments to the Supreme Court of North Carolina for consideration. However, work on such proposals is well underway and continues to progress. Additionally, the members of the Supreme Court have been made aware of Session Law 2019-243 as well as the Commission's ongoing efforts to craft recommended amendments to the General Rules of Practice, in keeping with the legislative mandate.

NEXT STEPS

To date, the Supreme Court has not promulgated electronic filing rules under subsection 7A-49.5 (b1) of the General Statutes of North Carolina. However, when the Supreme Court receives the Commission's proposal with regards to the relevant rules, it will evaluate the proposed amendments, apply any necessary edits, and promptly consider the proposal in conference.

The rulemaking process is time intensive, particularly where substantive rule changes are concerned. In light of the fact that the Judicial Branch is implementing a statewide electronic filing system which requires substantive changes to the General Rules of Practice for the Superior and District Courts, the process of proposing, vetting, editing, adopting, and promulgating those substantive rules will take some time. However, all involved are working diligently to craft rules that will ensure the successful implementation of eCourts while also satisfying the relevant statutory mandates.

As the rulemaking process progresses, the NCAOC will provide regular updates to the Joint Legislative Oversight Committee on Justice and Public Safety.



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